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Empowering Wakaf and Zakat in the Provision of Affordable Housing through Collaborative Procurement

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Abstract. *Wakaf* and *zakat* are the two most essential tools for assisting the poor and needy Muslims to have access to better living conditions. However, in the provision of affordable housing, efforts by the *wakaf* and *zakat* authorities are often hampered by constraints such as in the availability of funding and expertise. The purpose of this paper is to propose a conceptual model of collaborative procurement to empower *wakaf* and *zakat* in the provision of affordable housing for the poor and needy. It is contended that through collaborative procurement *wakaf* and *zakat* authorities would have better access to resources especially funding and technical expertise. The paper, an outcome of robust desk research and discussions with experts, describes the concepts of *wakaf*, and *zakat* and their efforts to help the poor and needy including in the provision of affordable housing and collaborative procurement. Besides, a collaborative procurement model comprising of *wakaf* and *zakat* authorities and private property developer has been developed and herein proposed. The paper highlights issues and constraints, including those related to the Shariah. The research outcome, concerning the proposed collaborative procurement model, contributes significantly towards empowering *wakaf* and *zakat* in the provision of affordable housing for the poor and needy.

1 Introduction

Inaccessibility to affordable housing is among the acutest problems facing the poor and needy Muslims and others. The problem is primarily rooted in their inability to afford to buy or to build their own houses due to their meagre incomes [1-2]. In addition, the problem exacerbated by the fact that Malaysia itself is facing a significant housing affordability problem [1, 3].

An affordable housing market should sit in within 3.0 times the median annual household income. However, in 2014 the median house prices for Malaysia stood at 4.4 times the median income, indicating that house prices in Malaysia are 'seriously unaffordable' [1].

The Government has been active in assisting Malaysians to have better access to affordable housing. Efforts include policy interventions, capping the prices of low-cost housing and spearheading dedicated affordable housing schemes such as the PPR, Rumah Mesra Rakyat (Malaysia), and PRIMA homes [3].

In Islam, equitable distribution of Allah's abundance is highly desired. Consequently, the wealthier Muslims are encouraged to help the poor and needy through *wakaf* and *zakat* contributions. These contributions are expended to benefit the poor and needy in initiatives that would improve their living conditions [4].

In the context of helping the poor and needy Muslims to have access to affordable housing, the efforts made by the *zakat* authorities are commendable. For

example, the *zakat* authorities in Malaysia provide a variety of assistance to the *asnafs* (eligible recipients of *zakat* monies) including costs to repair or build their houses, monthly rental charges and to pay the down payment for new low-cost houses [4].

In the case of *wakaf*, although they have been active in the provision of housing, their efforts are not mainly focusing on the poor and needy Muslims. Thus far, housing developments are undertaken by the *wakaf* authorities geared towards unlocking the value of *wakaf* land and properties [2]. The proceeds from these developments channelled towards meeting the wishes of the *Wakeef* (donor) that includes helping the poor and needy.

It appears, therefore, that the involvement of the *wakaf* and *zakat* authorities in the provision of affordable housing for the poor and needy is somewhat limited. The authorities, on their part, argued that their limited involvement is a matter of priority, and also due to a variety of constraints: availability of funds, land matters (un-registered *wakaf* land, uneconomical *wakaf* land due to size, location, etc.) and in the availability of expertise [2].

In addition, it is observed that the *wakaf* and *zakat* authorities seldom work in collaboration. This is perhaps due to the Shariah rulings on the way in which *wakaf* and *zakat* are administered: *wakaf* is voluntary, and the endowed assets must be expended in accordance to the wishes of the *Wakeef* whereas *zakat* is an obligation upon those who meet the requirements and the proceeds

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must be expended only for the *asnafs*. Thus, the *wakaf* and *zakat* authorities are not keen to embark on collaborative ventures so as that the spending and ownership of these two distinct entities remained distinctly intact.

In the meantime, the housing affordability problems facing the poor and needy Muslims and others continue unabated [2-3]. It has estimated that in 2014 the shortfall of affordable housing for Malaysians stood at 960,000 units [5] and within that, the shortfall for the Muslims stood at about 480,960 units [3]. Given the trend of Malaysians favouring smaller household sizes (1970: 5.5; 2020: 4.0), and this coupled with a steady annual increase in the population (2% annually), the problems look set to get worse unless more appropriate strategies are found and successfully implemented. Also, the phenomenon implies that the efforts made by the Government, *wakaf* and *zakat* authorities and others have been derisory.

This paper reports on a study to assess the potential of employing collaborative procurement as a means to empower the *wakaf* and *zakat* authorities in the provision of affordable housing for the poor and needy Muslims. In addition, the study endeavours to develop and propose a collaborative procurement model that could be used by the *wakaf* and *zakat* authorities in their future endeavours. It contended that through collaborative procurement the *wakaf* and *zakat* authorities would be able to achieve synergy, provided the *modus operandi* is not contrary to the Shariah.

This paper is structured as follows: following the Introduction, Part 2 of the paper presents the literature review of the concepts of *wakaf* and *zakat* and collaborative procurement respectively. Parts 3 and 4 describe the methodology used in carrying out the study, its results and the ensuing discussions respectively. Finally, Part 5 provides a conclusion to the paper and highlights the study's key findings and issues for future research.

2 Literature review

2.1 Wakaf and zakat

Wakaf, a perpetual charity donation, is an act that is highly encouraged. The Quran contains verses that encourage Muslims to practice *wakaf*. For example in the Quran (3:92): *By no means shall ye attain righteousness unless ye give (freely) of that which ye love; and whatever ye give, of a truth Allah knoweth it well* [6].

There are two types of *wakaf*, i.e., *wakaf khas* (specific *wakaf*) and *wakaf am* (general *wakaf*). The former requires the endowed assets to expend as decided by the *Wakeef* whereas, in the latter type, the utilization of the endowed assets is at the discretion of the trustee. In Malaysia, the respective State Islamic Religious Councils (SIRCs) is the appointed trustee. In addition to the traditional mode of providing burial grounds for Muslims, the building of mosques, *suraus* and *tahfizs*; modern mode of expending *wakaf* includes the building

of hotels, shop-lots, offices, and low-cost housing. These premises rented or leased out, and the incomes are used to benefit those identified by the *Wakeef* and the Muslim community as a whole.

Zakat is a compulsory act of almsgiving by those that fulfil the requirements as set by the Shariah. Thus, *alms are for the poor and the needy and those employed to administer the (funds); For those who hearts have been (recently) reconciled (to the truth), for those in bondage and in debt, in the cause of Allah, and for the wayfarer; (Thus it is) ordained by Allah, and Allah is full of knowledge and wisdom* (Quran, 9:60) [6].

As in the case of *wakaf*, the respective SIRCs tasked with the administration of *zakat*, i.e. their collection and disbursement. Beneficiaries of *zakat* monies are the *asnafs* and none other. In addition to providing daily sustenance to those that qualify, the SIRCs utilize *zakat* in the provision of scholarships, building or repairs of homes and religious schools, and the likes [4, 7].

In carrying out housing and other socio-economic development projects, the respective *wakaf* and *zakat* authorities face a variety of constraints notably in the availability of funds, land matters especially unregistered or uneconomical *wakaf* land due to unfavourable location, size, etc. and the lack of expertise [7-9]. In addition, the reluctance of these authorities to work in collaboration, perhaps due to the strict Shariah rulings on the way in which the *wakaf* and *zakat* assets are to expended, exacerbate the problems. However, newer publications have suggested that the 'silo working mentality' has changed. Some SIRCs allow their *wakaf* and *zakat* authorities to collaborate in developing affordable housing, i.e. building of houses on *wakaf* land that utilizes *wakaf* and *zakat* monies as well as having collaborative funding and expert inputs from private property developers [9-10].

2.2 Collaborative procurement

Traditionally, procuring a constructed facility would involve a set of key stakeholders – the Client, consultants, contractor, and sub-contractors – working together in a project setting that is temporary, yet with a rigidly defined start and completion dates, budget and standard of quality. Often, these key stakeholders will not make many attempts to collaborate except as defined by the terms of their contract agreements. In addition, it is common that the activities during the earlier parts of the works, i.e. project planning, design and tendering separated from the activities of physically putting the building parts together on the designated site. Consequently, attitudes such as adversarial, win-lose and claims culture often led to poor project outcome that may also include the parties having to settle their differences through mediation, arbitration or even litigation.

Lessons learned from the pitfalls of the traditional procurement approach led to the construction industry embracing newer and modern methods of procurement that promote the key stakeholders to work in

collaboration rather than separation, partnering and win-win rather than win-lose working environments.

The evolution in the procurement paradigm led parties to acknowledge that it would be more advantageous for them to work together towards achieving the shared objective which is to complete the project on time, within budget and meeting the Client's expected standard of quality. Thus, over the past decades, the construction industry has moved, albeit slowly, from adversarial to co-operation or integration, i.e. from the traditional design-bid-build to design-build, management oriented, partnering, alliance and collaborative procurement methods [11].

Constraints in public spending and the availability of expertise led governments the world over to open up the procurement of public facilities to greater private sector participation. This phenomenon saw the implementation of the Private Finance Initiative (PFI) and Public-Private-Partnerships (PPP). Through PFI and PPP, the industry practiced greater cooperation among the key stakeholders that include the formation of consortia and Joint Ventures (JV). These project vehicles then undertake the tasks to design, build, fund and operate (DBFO) the constructed facilities.

The term collaborative procurement refers to "... an effective way for more than one client, contractor, consultant or supplier to join together to procure works, services, materials or goods, share expertise, promote efficiency and deliver value for money savings in the delivery of a project ..." [12].

In collaborative procurement, two or more organizations, say Client-Contractor, Client-Client or even Client-Contractor-Consultants, may work together towards achieving the common objective of completing the project on time, within budget and meeting the Client's quality standard. They do so by aligning their "purchasing power and resources to deliver financial savings, efficiencies, and effectiveness without any detriment to the project's objectives." Past projects undertaken through collaborative procurement have recorded achieving "... considerable financial savings and improved working practices ..." [12].

In the context of the provision of social housing, a form of collaborative procurement referred to as the 'Investment Partners' programme launched in England in 2003. Under the programme, Housing Associations, Local Authorities, and other related organizations work together including forming consortia to build new social and affordable housing. The key objectives of this strategic partnerships are to achieve efficiency saving in the social housing and construction sectors [13].

In the case of the procurement of *wakaf* and *zakat* facilities in Malaysia, the traditional method of procurement prevails [14]. However, the trend is slowly changing as some forms of collaborative procurement between SIRC's, and private property developers are already taking place [9-10, 15].

3 Methodology

The research aims to promote collaboration between the *wakaf* and *zakat* authorities in building affordable housing. It is contended that the collaboration if structured and carried out most appropriately, would enable these authorities to alleviate or remove the constraints they face. In addition, the synergy could lead to efficiency and achieve value for money. Furthermore, the *wakaf* and *zakat* authorities may extend their collaboration to include working with experienced private property developers, and in so doing they could enjoy further advantages including better access to funding and expertise.

Consequently, a study to assess the potential of employing collaborative procurement as a means to empower the *wakaf* and *zakat* authorities in the provision of affordable housing for the poor and needy Muslims was carried out. The study, employing the qualitative research approach, combined review of literature and discussions with experts and practitioners representing the *wakaf* and *zakat* authorities, Shariah and construction communities.

The initial stages of the study involved an intensive review of related literature. The findings, concerning the present state of housing affordability, the concepts of *wakaf* and *zakat* and constraints the authorities face in the provision of affordable housing, and collaborative procurement has presented hereinbefore.

Moreover, preliminary conceptual models of collaborative procurement deemed appropriate to adopt for use by the *wakaf* and *zakat* authorities developed. The model aims to facilitate achieving synergy by leveraging on the strength of each of the potential partners. In the current research collaborative arrangements are limited to between the *wakaf* and *zakat* authorities and private property developers. This approach is taken to allow some forms of the current practice of traditional procurement, wherein the client side is separated from the construction side of the construction supply chain, to prevail thus, avoiding unnecessary shocks to the practice. Tables 1 and 2 provide a summary of the development of the conceptual models of collaborative procurement deemed appropriate for use in the provision of affordable *wakaf* and *zakat* housing.

Subsequently, the preliminary conceptual models of collaborative procurement formed the basis in the ensuing discussion with experts and practitioners; they represent the *wakaf* and *zakat* authorities, Shariah, academia and construction communities. In all, 12 experts and practitioners provided data and participated in the face to face discussion. The discussion, held between 2.30pm and 4.30pm on 26th April 2018 at IIUM, was facilitated by the first author. Rich qualitative data, in the forms of ideas, comments, suggestions, issues, and problems related to the models of collaborative procurement of *wakaf* and *zakat* for affordable housing were gathered. The thematic analysis used in analysing the data.

Table 1. SWOT (Strength, Weakness, Opportunities, and Threat) analysis of the *wakaf* and *zakat* authorities and private property developers.

	<i>Wakaf</i>	<i>Zakat</i>	Developer
Land	√	×	×
Funding	√	√	√
Shariah expertise	√	√	×
Procurement expertise	×	×	√
Procurement objective	unlocking	welfare	profit

Table 2. Conceptual models of collaborative procurement for *wakaf* and *zakat* affordable housing development.

	Partners
Model 1	<i>Wakaf</i> + <i>Zakat</i>
Model 2	<i>Wakaf</i> + Developer
Model 3	<i>Zakat</i> + Developer
Model 4	<i>Wakaf</i> + <i>Zakat</i> + Developer

4 Results and discussions

Most participants supported the findings from the SWOT analysis (Table 1).

It is a known fact that the *wakaf* authorities in Malaysia are in possession of tracks of land, donated by the *Wakeef*, and some of these lands could be used for development [3]. In addition, with the advent of cash *wakaf*, the *wakaf* authorities are slowly becoming cash rich.

In the case of *zakat*, the roles of the *zakat* authorities are to collect and disburse the monies to the *asnafs*. Under the concept of *al-tamlik*, the *zakat* monies belong to the *asnafs* and payments must be made to them soonest possible. However, there have been cases where *zakat* authorities have recorded surpluses in a particular year, and such surpluses may be used for investment including in the building of socio-economic facilities that would benefit the *asnafs* [15]. Since *zakat* payments

are mostly made in cash, *zakat* authorities do not own lands.

Shariah experts man the *wakaf* and *zakat* authorities. Consequently, they lack expertise in the area of property and project management. In cases where they undertake property development, these authorities would either rely on the services of other government departments such as the Public Works Department or private consultants.

Private property developers are entrepreneurs. They have, within their organizations, experts that could undertake property development projects and they have the means and ways to secure project funding. However, they do not own or having access to *wakaf* land for development.

Concerning the conceptual models of collaborative procurement, most participants agreed that some forms of collaboration between the *wakaf* and *zakat* authorities are already taking place. On the part of *wakaf*, participants pointed out cases where *wakaf* authorities have been quite active in forming joint ventures with private property developers to build houses and other socio-economic developments under the concept of 'unlocking' the value of *wakaf* lands. The *usufruct* of the completed properties is sold or leased to the public [15].

From the four models discussed, participants paid the most interest on Model 4, i.e. the model that promotes a tri-partite collaboration between *Wakaf-Zakat-Private Property Developer*. They believe that Model 4 has the highest potential to garner the most synergy that would bring together into the project the best of the three partners. From the discussion, Model 4 was further developed, and the outcome is as presented in Figure 1.

Theoretically, the idea as illustrated by the conceptual model of collaborative procurement is doable provided issues, especially those related to the Shariah, are adequately addressed.

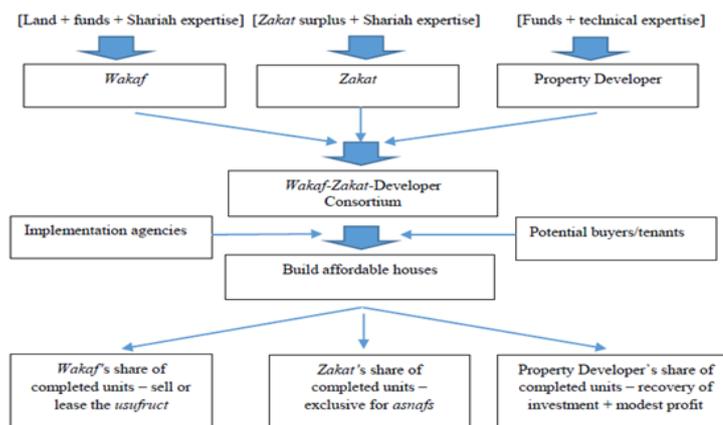


Fig 1. A conceptual model of collaborative procurement in the provision of *wakaf* and *zakat* affordable housing.

4.1 Key shariah and issues

Issue 1: Land or house ownership

Ownership of *wakaf* properties is non-transferable as they belong to Allah *s.w.t.* in perpetuity. The SIRC's only acts as administrators. Therefore, appropriate measures are required to ensure that the ownership remained intact and the rights and benefits of the buyers or lessees of the *usufruct* are not short-changed. In addition, upon the passing of the buyer or lessee, *wakaf* properties are not transferable to his next of kin, as the case under the *faraid*, and at the end of the lease agreement, the property is reverted to the SIRC.

In the case of *zakat*, only the *asnafs* are allowed to benefit or own the houses procured using the surplus *zakat* funds. Unless the houses meant for transit or temporary homes, the houses allocated and given to the *asnafs* are theirs and that no rental incomes or proceeds from the sale of these houses are expected. However, if the houses stood on *wakaf* land, then the ownership of the land is subjected to *wakaf* rules as discussed above.

Issue 2: Monetizing of *wakaf* land

Housing development requires funds. In a non-*wakaf* development, the land where the development is to take place could be used as collateral for loans. However, given the concept of perpetuity and inalienability of a *wakaf* property, it would not be possible for *wakaf* authorities or others to monetize the *wakaf* land [9]. Due to this complication, there were instances that proposals to develop *wakaf* land failed to materialize as banks are reluctant to provide the much-needed financing unless the project's sponsor can provide evidence that substantial 'off the plan' sale has achieved. Consequently, not many *wakaf* authorities or private property developers are able or willing to develop *wakaf* lands [9].

Issue 3: Uneconomical *wakaf* lands

Past works on *wakaf* often highlight the problems of *wakaf* land being unfavourably located or fragmented in size. These factors could affect the marketability of the venture. Under *wakaf* rule, land substitution via the application of the concept of *Istibdal* is allowed but to conduct an *istibdal* would require *fatwa* [7].

Issue 4: *Zakat* experiencing sudden demand for cash to meet its obligations

Utilizing *zakat* surplus to fund the *zakat*'s portion of a proposed housing project instead of disbursing the money to the *asnafs* may be referred to as *tawaqquf* (meaning to put on hold, to suspend). However, it is possible that during the project *zakat* may experience cash deficit thus, requiring them to cash in their shares in the consortium. Consequently, the consortium should have, in its agreement, a provision to 'buy-back' [7].

5 Conclusion

This paper reported on a study to assess the potential of employing collaborative procurement as a means to empower the *wakaf* and *zakat* authorities in the provision of affordable housing for the poor and needy Muslims. Key takeaways from the study are:

- Collaborative procurement has the potential to be used to alleviate and/or remove constraints facing the *wakaf* and *zakat* authorities in their development agenda. If successfully employed, the technique could facilitate and empowers these authorities in their endeavour to procure affordable housing for the poor and needy Muslims and others;
- A conceptual model of collaborative procurement involving the *wakaf* and *zakat* authorities and private property developer as its partners has been developed and herein proposed (Figure 1); and
- Several issues relating to the Shariah require further deliberation leading to the issuance of the appropriate *fatwa*. Topping the list includes; land and property ownership, *wakaf* land as collateral, *istibdal*, and *tawaqquf*.

Consequently, further and in-depth studies are required.

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In addition to the authors, the following are also involved with the study:

Assoc. Professor Dr. Azila Ahmad Sarkawi.
Assistant Professor Ar. Dr. Srazali Aripin.

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